

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Victoria Kaufman, Presiding
Courtroom 301 Calendar**

Wednesday, September 6, 2023

Hearing Room 301

9:30 AM

1: -

Chapter

**#0.00 Unless other arrangements have been made in advance with the Court, all appearances for this calendar will be via Zoom and not via Court Call. [See Judge Kaufman's posted procedures titled "phone/video appearances" on the Court's webpage.]
All parties participating in these hearings may connect from the zoom link listed below. This service is free of charge. You may participate using a computer or telephone.**

Individuals may participate by ZoomGov video and audio using a personal computer (equipped with camera, microphone and speaker), or a handheld mobile device (such as an iPhone or Android phone). Individuals may opt to participate by audio only using a telephone (standard telephone charges may apply).

Neither a Zoom nor a ZoomGov account is necessary to participate and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

Join CACB ZoomGov Meeting

Video/audio web address: <https://cacb.zoomgov.com/j/1605608180>

Meeting ID: 160 560 8180

Password: 897298

Join by Telephone

Telephone conference lines: 1-669-254-5252 OR 1-646-828-7666

Meeting ID: 160 560 8180

Password: 897298

For more information on appearing before Judge Kaufman by ZoomGov, please see the information entitled "Tips for a Successful ZoomGov Court Experience" on the Court's website at: <https://www.cacb.uscourts.gov/judges/honorable-victoria-s-kaufman> under the tab "Telephonic Instructions."

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Victoria Kaufman, Presiding
Courtroom 301 Calendar**

Wednesday, September 6, 2023

Hearing Room 301

9:30 AM

CONT...

Chapter

Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Victoria Kaufman, Presiding
Courtroom 301 Calendar**

Wednesday, September 6, 2023

Hearing Room 301

9:30 AM

1:23-11080 Nancy Tanya Segal

Chapter 13

#1.00 Motion for relief from stay [RP]

NORTHSOUTH CAPITAL, LLC
VS
DEBTOR

fr. 8/16/23

Docket 10

Tentative Ruling:

There is cause to grant relief from stay pursuant to 11 U.S.C. § 362(d)(1), (d)(2) and (d)(4).

Northsouth Capital, LLC (the "Movant") is the beneficiary of a trust deed encumbering the real property at issue, located at 1400 Laurel Way, Beverly Hills, California 90210 (the "Property"). As of the filing of its motion for relief from the automatic stay (the "Motion") [doc. 10], the Movant held a secured claim in the amount of \$5,710,722.27 which is all due and payable because the loan matured on December 1, 2022.

On March 28, 2023, the Movant recorded a notice of default after obtaining relief from stay in the bankruptcy case of Metallic Blue Development, LLC ("Metallic"), 2:22-bk-16483-ER. Motion, p. 7. Metallic is the identified original borrower on the Movant's trust deed and promissory note. A foreclosure sale was scheduled for August 3, 2023.

On August 2, 2023, SB Real Estate Investments, LLC, holder of a junior deed of trust on the Property, executed an assignment of its deed of trust to Nancy T. Segal (the "Debtor").

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Victoria Kaufman, Presiding
Courtroom 301 Calendar**

Wednesday, September 6, 2023

Hearing Room 301

9:30 AM

CONT... Nancy Tanya Segal

Chapter 13

On August 3, 2023, the date of the scheduled foreclosure sale, the Debtor filed a chapter 13 petition. As a result of the filing of the Debtor's bankruptcy case, the foreclosure sale was rescheduled to August 22, 2023. In her schedule A/B, the Debtor listed the Property with a fair market value of \$7,500,000.

On August 7, 2023, the Movant filed its Motion requesting relief under 11 U.S.C. §§ 362(d)(1), (d)(2) and (d)(4). In the Motion, the Movant states that Metallic never made a payment on the loan. Motion, Supplemental Declaration of Vinod Kuruvadi, [doc. 10, p. 62]. Furthermore, the Movant asserts the fair market value of the Property is approximately \$5,200,000.

The Debtor did not file an opposition to the Motion. On August 16, 2023, the Court held a hearing on the Motion. At the hearing, Leslie Richards made an appearance on behalf of SB Real Estate Investments, LLC. The Court continued the hearing to September 6, 2023, requiring opposition to the Motion to be filed no later than August 30, 2023. The Court set a reply deadline of September 5, 2023.

On August 29, 2023, the Debtor filed an opposition [doc. 17]. On August 31, 2023, the Movant filed a reply to the opposition [doc. 18].

11 U.S.C. § 362(d)(4) provides:

On request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay—

(4) with respect to a stay of an act against real property under subsection (a), by a creditor whose claim is secured by an interest in such real property, if the court finds that the filing of the petition was part of a scheme to delay, hinder, or defraud creditors that

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Victoria Kaufman, Presiding
Courtroom 301 Calendar**

Wednesday, September 6, 2023

Hearing Room 301

9:30 AM

CONT...

Nancy Tanya Segal
involved either—

Chapter 13

(A) transfer of all or part ownership of, or other interest in, such real property without the consent of the secured creditor or court approval; or

(B) multiple bankruptcy filings affecting such real property.

If recorded in compliance with applicable State laws governing notices of interests or liens in real property, an order entered under paragraph (4) shall be binding in any other case under this title purporting to affect such real property filed not later than 2 years after the date of the entry of such order by the court, except that a debtor in a subsequent case under this title may move for relief from such order based upon changed circumstances or for good cause shown, after notice and a hearing. Any Federal, State, or local governmental unit that accepts notices of interests or liens in real property shall accept any certified copy of an order described in this subsection for indexing and recording.

The Court concludes that the Debtor's filing of the petition in this case was part of a scheme to delay, hinder, or defraud creditors. In her opposition, the Debtor did not address that: (1) no payments have been made on Movant's loan; (2) there are substantial delinquent property taxes; (3) the Debtor's income is insufficient to make loan payments and/or to pay the property taxes; and (4) the value of the Property is declining. The Debtor's proposed chapter 13 plan does not provide for Movant's senior debt against the Property. Moreover, the Debtor did not include a declaration in support of her opposition.

The transfer of an interest in the Property to the Debtor just one day before the scheduled foreclosure sale, the multiple bankruptcy filings affecting the Property and the order granting Movant relief from stay in Metallic's bankruptcy case support the provision of relief from stay to Movant in this case in accordance with 11 U.S.C. § 362(d)(4).

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Victoria Kaufman, Presiding
Courtroom 301 Calendar**

Wednesday, September 6, 2023

Hearing Room 301

9:30 AM

CONT... Nancy Tanya Segal

Chapter 13

Movant (and any successors or assigns) may proceed under applicable nonbankruptcy law to enforce its remedies to foreclose upon and obtain possession of the Property.

The 14-day stay prescribed by FRBP 4001(a)(3) is waived.

Movant must submit the order within seven (7) days.

Party Information

Debtor(s):

Nancy Tanya Segal

Pro Se

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Victoria Kaufman, Presiding
Courtroom 301 Calendar**

Wednesday, September 6, 2023

Hearing Room 301

9:30 AM

1:17-13313 Pedro Mejia Lopez

Chapter 13

#2.00 Objection to Declaration re: Default Under Adequate Protection Order;
Request For Entry Of Order Granting Relief From Stay

fr. 7/12/23; 8/16/23

Docket 107

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Pedro Mejia Lopez

Represented By
Donald E Iwuchuku

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Victoria Kaufman, Presiding
Courtroom 301 Calendar**

Wednesday, September 6, 2023

Hearing Room 301

9:30 AM

1:20-11338 Eric Marc Randle

Chapter 13

#2.01 Motion for relief from stay [RP]

DEUTSCHE BANK NATIONAL TRUST COMPANY
VS
DEBTOR

fr. 7/19/23; 8/23/23

Docket 84

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Eric Marc Randle

Represented By
Nathan A Berneman
Ali R Nader

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Victoria Kaufman, Presiding
Courtroom 301 Calendar**

Wednesday, September 6, 2023

Hearing Room 301

9:30 AM

1:23-10043 Melody Lynn Knight

Chapter 7

#3.00 Motion for relief from stay [PP]

SANTANDER CONSUMER USA INC.
VS
DEBTOR

Docket 20

Tentative Ruling:

Grant relief from stay pursuant to 11 U.S.C. § 362(d)(1) and (d)(2).

Movant (and any successors or assigns) may proceed under applicable nonbankruptcy law to enforce its remedies to repossess and sell the property.

The 14-day stay prescribed by FRBP 4001(a)(3) is waived.

Movant must submit the order within seven (7) days.

Note: No response has been filed. Accordingly, no court appearance by movant is required. Should an opposing party file a late opposition or appear at the hearing, the Court will determine whether further hearing is required and movant will be so notified.

Party Information

Debtor(s):

Melody Lynn Knight

Represented By
Michael E Clark

Movant(s):

Santander Consumer USA Inc. dba

Represented By
Sheryl K Ith

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Victoria Kaufman, Presiding
Courtroom 301 Calendar**

Wednesday, September 6, 2023

Hearing Room 301

9:30 AM

CONT... Melody Lynn Knight

Chapter 7

Trustee(s):

David Keith Gottlieb (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Victoria Kaufman, Presiding
Courtroom 301 Calendar**

Wednesday, September 6, 2023

Hearing Room 301

9:30 AM

1:23-10709 Hunter Arthur Laizure

Chapter 7

#4.00 Motion for relief from stay [PP]

TOYOTA MOTOR CREDIT CORPORATION
VS
DEBTOR

Docket 13

Tentative Ruling:

Grant relief from stay pursuant to 11 U.S.C. § 362(d)(1) and (d)(2).

Movant (and any successors or assigns) may proceed under applicable nonbankruptcy law to enforce its remedies to repossess and sell the property.

The 14-day stay prescribed by FRBP 4001(a)(3) is waived.

Movant must submit the order within seven (7) days.

Note: No response has been filed. Accordingly, no court appearance by movant is required. Should an opposing party file a late opposition or appear at the hearing, the Court will determine whether further hearing is required and movant will be so notified.

Party Information

Debtor(s):

Hunter Arthur Laizure

Represented By
Gregory M Shanfeld

Movant(s):

Toyota Motor Credit Corporation

Represented By
Kirsten Martinez

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Victoria Kaufman, Presiding
Courtroom 301 Calendar**

Wednesday, September 6, 2023

Hearing Room 301

9:30 AM

CONT... Hunter Arthur Laizure

Chapter 7

Trustee(s):

Nancy J Zamora (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Victoria Kaufman, Presiding
Courtroom 301 Calendar**

Wednesday, September 6, 2023

Hearing Room 301

9:30 AM

1:23-10786 Paul Markus Samson Martinez

Chapter 13

#5.00 Motion for relief from stay [PP]

MIDWAY HFCA LLC
VS
DEBTOR

Docket 25

Tentative Ruling:

Grant relief from stay pursuant to 11 U.S.C. § 362(d)(1) and (d)(2).

Movant (and any successors or assigns) may proceed under applicable nonbankruptcy law to enforce its remedies to repossess and sell the property.

The 14-day stay prescribed by FRBP 4001(a)(3) is waived.

Movant must submit the order within seven (7) days.

Note: No response has been filed. Accordingly, no court appearance by movant is required. Should an opposing party file a late opposition or appear at the hearing, the Court will determine whether further hearing is required and movant will be so notified.

Party Information

Debtor(s):

Paul Markus Samson Martinez

Represented By
Travis M. Poteat

Movant(s):

MIDWAY HFCA LLC

Represented By
Cheryl A Skigin

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Victoria Kaufman, Presiding
Courtroom 301 Calendar**

Wednesday, September 6, 2023

Hearing Room 301

9:30 AM

CONT... Paul Markus Samson Martinez

Chapter 13

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Victoria Kaufman, Presiding
Courtroom 301 Calendar**

Wednesday, September 6, 2023

Hearing Room 301

9:30 AM

1:22-10406 Rodolfo Valenzuela Sanchez

Chapter 13

#6.00 Motion for relief from stay [RP]

NEWREZ, LLC DBA SHELLPOINT MORTGAGE SERVICING
VS
DEBTOR

Docket 33

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Rodolfo Valenzuela Sanchez

Represented By
Kevin T Simon

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Victoria Kaufman, Presiding
Courtroom 301 Calendar**

Wednesday, September 6, 2023

Hearing Room 301

9:30 AM

1:22-11460 Arthur Sahakyan

Chapter 13

#7.00 Motion for relief from stay [RP]

NATIONSTAR MORTGAGE LLC
VS
DEBTOR

Stip for adequate protection filed 9/5/23

Docket 42

*** VACATED *** REASON: Order approving stip entered 9/5/23. [Dkt. 46]

Tentative Ruling:

Grant relief from stay pursuant to 11 U.S.C. § 362(d)(1).

Movant (and any successors or assigns) may proceed under applicable nonbankruptcy law to enforce its remedies to foreclose upon and obtain possession of the property.

The 14-day stay prescribed by FRBP 4001(a)(3) is waived.

Movant must submit the order within seven (7) days.

Note: No response has been filed. Accordingly, no court appearance by movant is required. Should an opposing party file a late opposition or appear at the hearing, the Court will determine whether further hearing is required and movant will be so notified.

Party Information

Debtor(s):

Arthur Sahakyan

Represented By
Tyson Takeuchi

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Victoria Kaufman, Presiding
Courtroom 301 Calendar**

Wednesday, September 6, 2023

Hearing Room 301

9:30 AM

CONT... Arthur Sahakyan

Chapter 13

Movant(s):

Nationstar Mortgage LLC

Represented By
Jennifer C Wong
JaVonne M Phillips
Dane W Exnowski

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Victoria Kaufman, Presiding
Courtroom 301 Calendar**

Wednesday, September 6, 2023

Hearing Room 301

9:30 AM

1:23-10270 Linda Ezor Swarzman

Chapter 11

#8.00 Motion for relief from stay [RP]

CHURCHILL FUNDING I, LLC

VS

DEBTOR

16014 Buccaneer Lane, Houston, Texas 77062

Stip to continue filed 8/23/23

Docket 166

***** VACATED *** REASON: Continued by stip to 10/4/23 at 9:30 am**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Linda Ezor Swarzman

Represented By
Susan K Seflin
Jessica Wellington
David Seror

Movant(s):

Churchill Funding I, LLC

Represented By
Eric S Pezold
Andrew Still

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Victoria Kaufman, Presiding
Courtroom 301 Calendar**

Wednesday, September 6, 2023

Hearing Room 301

9:30 AM

1:23-10270 Linda Ezor Swarzman

Chapter 11

#9.00 Motion for relief from stay [RP]

CHURCHILL FUNDING I, LLC

VS

DEBTOR

711 Meadowglen Drive, Baytown, Texas 77521

Stip to continue filed 8/23/23

Docket 169

***** VACATED *** REASON: Continued by stip to 10/4/23 at 9:30 am**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Linda Ezor Swarzman

Represented By
Susan K Seflin
Jessica Wellington
David Seror

Movant(s):

Churchill Funding I, LLC

Represented By
Eric S Pezold
Andrew Still

United States Bankruptcy Court
Central District of California
San Fernando Valley
Victoria Kaufman, Presiding
Courtroom 301 Calendar

Wednesday, September 6, 2023

Hearing Room 301

9:30 AM

1:23-10270 Linda Ezor Swarzman

Chapter 11

#10.00 Motion for relief from stay [RP]

NP MASTER TRUST I
VS
DEBTOR

Stip to continue filed 8/23/23

Docket 171

*** VACATED *** REASON: Continued by stip to 9/27/23 at 9:30 am

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Linda Ezor Swarzman

Represented By
Susan K Seflin
Jessica Wellington
David Seror

Movant(s):

NP Master Trust I

Represented By
Arnold L Graff

United States Bankruptcy Court
Central District of California
San Fernando Valley
Victoria Kaufman, Presiding
Courtroom 301 Calendar

Wednesday, September 6, 2023

Hearing Room 301

9:30 AM

1:23-10270 Linda Ezor Swarzman

Chapter 11

#11.00 Motion for relief from stay [RP]

CHURCHILL FUNDING I LLC
VS
DEBTOR
803 & 807 W 6th Street

Stip to continue filed 8/23/23

Docket 177

*** VACATED *** REASON: Continued by stip to 10/4/23 at 9:30 am

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Linda Ezor Swarzman

Represented By
Susan K Seflin
Jessica Wellington
David Seror

Movant(s):

Churchill Funding I, LLC

Represented By
Eric S Pezold
Andrew Still

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Victoria Kaufman, Presiding
Courtroom 301 Calendar**

Wednesday, September 6, 2023

Hearing Room 301

1:30 PM

1:20-10276 Hormoz Ramy

Chapter 7

Adv#: 1:23-01019 Seror v. Kamali et al

#12.00 Status Conference re: Complaint For Sale Of Real Property of the Estate In Which Non-Debtors Have Interests Under U.S.C. Sec.363(h)

fr. 8/16/23(stip)

Stip to continue filed 8/23/23

Docket 1

*** VACATED *** REASON: Continued by stip to 10/4/23 at 1:30 pm

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Hormoz Ramy

Represented By
Siamak E Nehoray

Defendant(s):

Parviz Kamali

Pro Se

Morteza Talebizadeh

Pro Se

Plaintiff(s):

David Seror

Represented By
Steven T Gubner
Ryan Coy
Jessica L Bagdanov

Trustee(s):

David Seror (TR)

Represented By
Steven T Gubner
Jessica L Bagdanov
Tamar Terzian
Ryan Coy

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Victoria Kaufman, Presiding
Courtroom 301 Calendar**

Wednesday, September 6, 2023

Hearing Room 301

1:30 PM

CONT...

Hormoz Ramy

Chapter 7

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Victoria Kaufman, Presiding
Courtroom 301 Calendar**

Wednesday, September 6, 2023

Hearing Room 301

1:30 PM

1:23-10270 Linda Ezor Swarzman

Chapter 11

Adv#: 1:23-01018 Morris v. Swarzman

#13.00 Status conference re: complaint

Docket 1

Tentative Ruling:

In light of the pending motion to authorize BG Law LLP to withdraw as the debtor's counsel [Case No. 1:23-bk-10270-VK, doc. 197], the Court will continue this status conference to **2:00 p.m. on September 13, 2023.**

Appearances on September 6, 2023 are excused.

Party Information

Debtor(s):

Linda Ezor Swarzman

Represented By
Susan K Seflin
Jessica Wellington
David Seror

Defendant(s):

Linda Ezor Swarzman

Represented By
Jessica Wellington

Plaintiff(s):

April C Morris

Pro Se

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Victoria Kaufman, Presiding
Courtroom 301 Calendar**

Wednesday, September 6, 2023

Hearing Room 301

2:00 PM

1:23-10270 Linda Ezor Swarzman

Chapter 11

Adv#: 1:23-01018 Morris v. Swarzman

- #14.00** Motion to (1) Dismiss Complaint Under Civil Rule 12(b)(6); and
(2) Strike Certain Portions of the Complaint Under Civil Rule 12(f); or
(3) Alternatively, Order a More Definite Statement Under Civil Rule 12(e)

Docket 5

Tentative Ruling:

In light of the pending motion to authorize BG Law LLP to withdraw as the debtor's counsel [Case No. 1:23-bk-10270-VK, doc. 197], the Court will continue this hearing to **2:00 p.m. on September 13, 2023.**

Appearances on September 6, 2023 are excused.

Party Information

Debtor(s):

Linda Ezor Swarzman

Represented By
Susan K Seflin
Jessica Wellington
David Seror

Defendant(s):

Linda Ezor Swarzman

Represented By
Jessica Wellington

Plaintiff(s):

April C Morris

Pro Se

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Victoria Kaufman, Presiding
Courtroom 301 Calendar**

Wednesday, September 6, 2023

Hearing Room 301

2:00 PM

1:23-10858 Shahriar Azari

Chapter 13

Adv#: 1:23-01022 Azari v. Peace Consulting and Investment, Inc. et al

#15.00 Motion to Dismiss As To Defendant Ani Abcarians
Pursuant to FRCP 12(b)(6) and FRBP 7012

Docket 9

Tentative Ruling:

The Court will grant the motion to dismiss (the "Motion") [doc. 9] as to Shahriar Azari's ("Plaintiff") claim for fraud against defendant Ani Abcarians ("Ani"), with leave to amend the complaint. The Court will deny the Motion as to all other claims against Ani.

"A motion to dismiss [pursuant to Fed. R. Civ. P. 12(b)(6)] will only be granted if the complaint fails to allege enough facts to state a claim to relief that is plausible on its face." *Fayer v. Vaughn*, 649 F.3d 1061, 1064 (9th Cir. 2011) (citing *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 547, 127 S.Ct. 1955, 167 L.Ed.2d 929 (2007)). "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Id.* (citing *Ashcroft v. Iqbal*, 556 U.S. 662, 678, 129 S.Ct. 1937, 173 L.Ed.2d 868 (2009)).

Pursuant to Fed. R. Civ. P. ("Rule") 9(b), "[i]n alleging fraud or mistake, a party must state with particularity the circumstances constituting fraud or mistake. Malice, intent, knowledge, and other conditions of a person's mind may be alleged generally."

"Particularity" means that allegations must be stated with "specificity including an account of the time, place, and specific content of the false representations as well as the identities of the parties to the misrepresentations." *Lepton Labs, LLC v. Walker*, 55 F.Supp. 3d 1230, 1243 (C.D. Cal 2014) (citing *Swartz v. KPMG LLP*, 476 F.3d 756, 764 (9th Cir 2007)). Allegations must be "specific enough to give defendants notice of the particular misconduct which is alleged to constitute the fraud charged[.]" *Neubronner v. Milken*, 6 F.3d 666, 671 (9th Cir. 1993). "[M]ere conclusory allegations of fraud are insufficient." *Moore v. Kayport Package Exp., Inc.*, 885 F.2d 531, 540 (9th Cir. 1989).

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Victoria Kaufman, Presiding
Courtroom 301 Calendar**

Wednesday, September 6, 2023

Hearing Room 301

2:00 PM

CONT... **Shahriar Azari**

Chapter 13

In California, "an action for actual fraud requires a plaintiff to show: (1) a misrepresentation (false representation, concealment, or nondisclosure); (2) knowledge of falsity; (3) intent to defraud, i.e., to induce reliance; (4) justifiable reliance; and (5) resulting damage." *In re Hai Lecong*, 679 Fed.Appx. 526, 528 (9th Cir. 2017). With respect to Plaintiff's claim for fraud, the complaint (the "Complaint") [doc. 1] makes, in relevant part, the following factual allegations:

Plaintiff signed a promissory note and deed of trust in anticipation of a loan which was never made. Complaint, ¶ 11. No funds were exchanged between him and the holder of the note. *Id.*, ¶ 13. Defendant Armenouhi Abcarians ("Armenouhi") was involved in preparing the note and deed of trust. *Id.*, ¶ 35.

Armenouhi made misrepresentations and false promises to Plaintiff that the note and deed of trust would not affect Plaintiff's interest in his home, and that both instruments would be advantageous to the Plaintiff. *Id.*, ¶ 36. Armenouhi's statements were meant to defraud, entice and trick Plaintiff into signing the note and deed of trust in order to later seize Plaintiff's home in a foreclosure sale. *Id.*, ¶ 37. Armenouhi intended to induce Plaintiff to rely on her misrepresentations and false promises. *Id.*, ¶ 40.

In addition, Plaintiff asserts:

The defendants (Armenouhi, Ani and Peace Consulting and Investment Inc., and collectively, "Defendants") made material misrepresentations to Plaintiff with regard to the note, the deed of trust and an assignment relating to the deed of trust. *Id.* ¶ 87. Defendants made material misrepresentations to Plaintiff with regard to the amount due and owing in a balloon payment notice, as well as a notice of default and a notice of trustee's sale. *Id.*, ¶ 88. Finally, Defendants made material misrepresentations in the assignment with the intent to deceive and defraud Plaintiff and others. *Id.*, ¶ 89.

Under Rules 9(b) and 12(b)(6), Plaintiff must set forth, with specificity, the time, place and specific content of Ani's alleged misrepresentations. With respect to Ani, the Complaint does not do so. Consequently, the Court will grant the Motion as to Plaintiff's claim for fraud.

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Victoria Kaufman, Presiding
Courtroom 301 Calendar**

Wednesday, September 6, 2023

Hearing Room 301

2:00 PM

CONT...

Shahriar Azari

Chapter 13

Because this defect could possibly be cured by an amendment, the Court will grant Plaintiff leave to amend the Complaint to state with particularity the facts concerning fraud committed by Ani, that is, the time, place and specific content of *Ani's* false representations, and Plaintiff's reliance on any false representations from *Ani*.

Although the Complaint does not refer specifically to Ani with respect to Plaintiff's other claims, the facts in the Complaint are sufficiently plead to apprise Ani of those claims, such that she is able to prepare a response to the claims.

Plaintiff will have 14 days from the entry of the order to file and serve an amended complaint or a notice that Plaintiff will not be doing so. Ani must file a response to any amended complaint, or an answer to the pending complaint - if Plaintiff is not filing an amended complaint, within 14 days after the filing date of the amended complaint or Plaintiff's notice that he will not file an amended complaint.

The Court will prepare the order.

Party Information

Debtor(s):

Shahriar Azari

Represented By
Nathan A Berneman

Defendant(s):

Peace Consulting and Investment,

Pro Se

Armenouhi Abcarians

Pro Se

Ani Abcarians

Represented By
Stella A Havkin

Plaintiff(s):

Shahriar Azari

Represented By
David B Lally

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Victoria Kaufman, Presiding
Courtroom 301 Calendar**

Wednesday, September 6, 2023

Hearing Room 301

2:00 PM

1:23-10858 Shahriar Azari

Chapter 13

Adv#: 1:23-01022 Azari v. Peace Consulting and Investment, Inc. et al

- #16.00** Status conference re: complaint:
1. To determine the validity and extent of deed of trust;
 2. Cancel written instrument;
 3. Fraud;
 4. Slander of title;
 5. Elder abuse;
 6. Violation of B&P code section 17200 et. seq; and
 7. Declaratory relief

COUNTER-CLAIM

Peace Consulting and Investment Inc., Armenouh Abcarians, and Ani Abcarians,
Counter-Claimants,

vs.

Shahriar Azari, Ken K. Sowlati, Soheila Hussaini,
Counter-Defendants

fr. 8/23/23

Docket 1

Tentative Ruling:

The Court will continue the status conference to **October 18, 2023 at 1:30 p.m.**, to provide sufficient time for counter-defendants Ken K. Sowlati and Soheila Hussaini to file and serve a response to the counterclaims asserted by Peace Consulting and Investment Inc., Armenouhi Abcarians and Ani Abcarians [doc. 7] and for a revised Joint Status Report, which includes information regarding the counterclaims, to be filed 14 days prior to the continued status conference.

Prior to that date, do the plaintiff and the defendants seek to participate in mediation? If so, the plaintiff must submit an Order Assigning Matter to Mediation Program and Appointing Mediator and Alternate Mediator using Form 702.

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Victoria Kaufman, Presiding
Courtroom 301 Calendar**

Wednesday, September 6, 2023

Hearing Room 301

2:00 PM

CONT... Shahriar Azari

Chapter 13

Party Information

Debtor(s):

Shahriar Azari

Represented By
Nathan A Berneman

Defendant(s):

Peace Consulting and Investment,

Pro Se

Armenouhi Abcarians

Pro Se

Ani Abcarians

Pro Se

Plaintiff(s):

Shahriar Azari

Represented By
David B Lally

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se